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SENATE BILL 442

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO PROVIDE A
DEDUCTION FOR NET CAPITAL GAIN INCOME FROM THE SALE OF A
CLOSELY HELD BUSINESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-34 NMSA 1978 (being Laws 1999,
Chapter 205, Section 1) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME. --

A. Except as provided in Subsection [B] C of this
section, a taxpayer may claim a deduction from net income in an
amount equal to the greater of:

(1) the taxpayer's net capital gain income for
the taxable year for which the deduction is being claimed, but
not to exceed one thousand dollars (\$1,000); or

(2) the taxpayer's net capital gain income

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1 attributable to the sale of a closely held business if the
2 income is included in net income and allocated or apportioned
3 to New Mexico.

4 B. A husband and wife who file separate returns for
5 a taxable year in which they could have filed a joint return
6 may each claim only one-half of the deduction provided by this
7 section that would have been allowed on the joint return.

8 [~~B.~~] C. A taxpayer may not claim the deduction
9 provided in Subsection A of this section if the taxpayer has
10 claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

11 [~~C.~~] D. As used in this section:

12 (1) "closely held business" means a trade or
13 business:

14 (a) operated as a sole proprietorship;
15 or

16 (b) operated by a corporation,
17 partnership, limited partnership, limited liability company or
18 other legal entity, the equity interests of which are
19 controlled by seventy-five or fewer qualifying owners;

20 (2) "equity interest" means the equity of a
21 legal entity, including the capital stock of a corporation, the
22 interest of a general or limited partner in a partnership or
23 the interest of a member of a limited liability company;

24 (3) "net capital gain" means "net capital
25 gain" as defined in Section 1222 (11) of the Internal Revenue

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1 Code; and

2 (4) "sale of a closely held business" means
3 the sale or exchange of:

4 (a) substantially all of the assets of a
5 closely held business; or

6 (b) a taxpayer's entire equity interest
7 in a closely held business in a transaction in which
8 substantially all of the equity interests of the closely held
9 business are sold or exchanged. "

10 Section 2. APPLICABILITY.--The provisions of this act
11 apply to taxable years beginning on or after January 1, 2003.

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